

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 6507
BILL NUMBER: SB 8

NOTE PREPARED: Dec 14, 2021
BILL AMENDED:

SUBJECT: Nonprofit Bail Funding.

FIRST AUTHOR: Sen. Freeman
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Charitable Organization* – It allows a charitable organization to pay bail on behalf of a defendant if the organization meets certain criteria. It exempts from the certification requirement a charitable organization that pays bail for not more than two individuals in any 180 day period. It provides that if money or bonds have been set, bail by surety may be substituted for the money or bonds at any time before a breach.
- B. *State and a Political Subdivision* – It prohibits the state and a political subdivision from: (1) posting bail for any person; or (2) providing a grant to any entity that provides funding for any person.
- C. *Certain Court Costs* – It requires a court to apply the bail to certain court costs.
- D. *Entities Receiving Grants* – It prohibits an entity that has received a grant from the state or a political subdivision from posting bail for any person or providing a grant, directly or indirectly, to an entity that posts bail for any person.

Effective Date: Upon passage; July 1, 2022.

Explanation of State Expenditures: *Charitable Organization* – This provision will increase the workload of the Department of Insurance (DOI) to adopt rules concerning charitable bail organizations as well as receive and review certification requests from charitable bail organizations that intend to provide bail for more than two people in a 6-month period. The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

State and Political Subdivisions – The Criminal Justice Institute reported that it has not funded any organizations that are directly participating in assisting persons who are in confined in county jails prior to trial.

Explanation of State Revenues: *Charitable Organization* – The provision will increase General Fund revenue to the extent individuals apply for charitable bail organization certifications issued by the DOI. The initial and renewal application fee is \$300, with certification lasting two years. The total number of charitable bail organizations in the state is unknown. Increases in General Fund revenue from certification fees is expected to be minimal.

Certain Court Costs – Courts would retain all or part of the bail to pay for court fees (deposited in the state General Fund) and criminal fines (deposited in the Common School Fund).

Explanation of Local Expenditures: *Entities Receiving Grants* – This bill could cause a minor increase in the pretrial population of certain county jails in which grant-funded entities are currently assisting detainees with release on bail before trial. These entities which directly assist in financing bail for pretrial defendants would not be permitted to use any money from grants from the state, county, or a municipality to assist in financing bail.

Additional Information – Currently, Marion County provides funding of \$2.2 M to the Central Indiana Community Foundation (CICF), a nonprofit organization in Indianapolis. CICF awarded \$100,000 to the Bail Project in CY 2020. The Bail Project directly assists persons in securing bail who are confined in the Marion County jail while awaiting trial. The Bail Project also operates a similar program in the city of Gary.

Between November 2018 and January 2021, the Bail Project affiliate in Indianapolis has provided bail assistance to 753 persons.

The average cost per day is approximately \$54 based on the per diem payments reported by U.S. Marshals to house federal prisoners in 16 county jails across Indiana during federal FY 2017.

Explanation of Local Revenues: *Certain Court Costs* – This provision could increase local revenue by a minor amount. When charitable bail organizations secure bail for defendants, the court would be required to retain all or part of the bail to pay for publicly paid costs of representation, as well as fines, costs, fees, and restitution that the court has ordered the defendant to pay. This would be required whether the defendant is found guilty or not.

State Agencies Affected: Criminal Justice Institute; Department of Insurance.

Local Agencies Affected: Counties and Municipalities; Courts with criminal jurisdiction; county sheriffs.

Information Sources: U.S. Department of Justice Marshals Service;
<https://www.cicf.org/2020/12/07/crime-prevention-program-announces-2-2-million-in-grants-to-combat-violent-crime-in-marion-county/>;
https://bailproject.org/wp-content/uploads/2021/02/IN-Fact-Sheet-2_4_21.pdf

Fiscal Analyst: Mark Goodpaster, 317-232-9852.